



Department of Defense



***National Security
Personnel System***

HR Policy Issues

July 2009

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- **Staffing Update**
 - New Regulation
 - Proposed II
 - Movement/Conversion Out
 - RIF
 - Pay Increases – Level 1 Rating
- **Classification/Qualifications**
- **Performance/Pay Pool Management**
 - Deployed Civilian
 - Forced Distribution
 - 2009 Payout Summary
 - Lessons Learned/Pay Pool Funding



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Staffing Update

**DoD Worldwide Conference
July 2009**

July 2009

- **New Staffing and Employment Regulations effective March 23, 2009**
- **Revised Guide to Processing Personnel Actions published March 2009**
- **April 2006 Staffing and Employment Implementing Issuance (II) in effect to extent it does not conflict with 2009 regulation or Fall 2008 Implementing Issuances**
- **Revised II (SC 1950) Pending Review and Approval**

Modifications – New Regulation

- **Establishes Tenure Groups IAW 5 CFR Part 351**
- **Return to OPM rules for Probationary Period**
 - Revises to conform with OPM requirements for time limits for both initial and supervisory probationary periods
 - Revises to mirror OPM requirements for crediting time served toward completion of probationary period

Flexibilities in New Regulation

■ External hiring—

- Direct hire authorities - Severe Shortage/Critical Need Hiring
- Ability to establish additional hiring authorities (requires publishing in FR)
- Streamlined competitive examining authority
- Extended appointment timeframes for employees hired into term appointments in the competitive service
- Extended appointment timeframes for employees hired into temporary appointments in the excepted and competitive service
- Ability to noncompetitively convert employees on temporary or term appointments in the competitive service to career conditional or career appointments provided certain requirements are met
- Non-citizen hiring authority

Staffing Flexibilities – cont'd

■ Internal movement—

- Alternative promotion procedures
 - ✓ Assessment boards
 - ✓ Alternative certification
 - ✓ Exceptional performance promotion
- Extended timeframes for noncompetitive temporary promotions and details to a higher level of work (up to 180 days)
- No requirement to extend details incrementally
- No time after competitive appointment restriction
- No time-in-grade restriction
- No time limit on temporary reassignments

SC1950.5.1. Tenure Group. A person employed in either the excepted or competitive service for other than temporary, term, or indefinite employment is appointed as a career employee subject to the appropriate probationary period for the appointment. A person who was previously employed on a career appointment in NSPS is eligible for reinstatement without time limit. Employees are placed in one of three tenure groups:

Comment (h1): Language moved to 9901.511(e) and 9901.504 (Definitions). Language changed to correspond with OPM rules to include career and career-conditional.

Comment (h2): Deleted language.

SC1950.5.2.4. In-Service Probationary Period. Upon initial implementation of NSPS, supervisory probationary periods shall be the only type of in-service probationary periods.

Comment (s3): This language deleted – Revised regulation does not provide authority to establish in-service probationary periods other than supervisory probationary periods.

SC1950.5.3.1.1. Time-in-grade. Positions covered by NSPS are excluded from time-in-grade restrictions.

Comment (h4): Relocated to SC1920.15.1

SC1950.6.3.3.7. Exceptions to Competition. Components may exclude the following actions from competitive procedures:

Comment (h5): Entire “Exceptions to Competition” section moved to 9901.510(e)(7)(G)

SC1950.6.3.3.9. Movement Within and Across Career Groups. Unless otherwise noted, the following rules apply regardless of career group:

Comment (h6): Moved entire section “Movement Within and Across Career Groups” to SC1920.14.4.

SC1950.AP1.7. Promotion. Movement to a higher pay band on a permanent basis.

Comment (h7): Updated meaning refer to 9901.103

Footnote –

This document is provided as a reference tool for HR Practitioners. The comment bubbles provide a crosswalk between this implementing issuance and the revised Staffing and Employment Regulation, 5 CFR 9901.501-516, published January 16, 2009, and the revised DoD1400.25-M regulations pertaining to NSPS, published on December 1, 2008.

- Deletes text now incorporated in Subpart E
- Provides more information on reinstatement eligibility (in response to adoption of career-conditional system)
- Emphasizes that preference eligible may not be passed over after 3 bona fide considerations, i.e., rule of 3 does not apply – objection is necessary
- No longer addresses NSPS qualification determination/level of work (See SC 1920)
- Adds information concerning appointment of Presidential Management Fellows, including a table showing which pay bands they may be appointed to (i.e., pay bands equivalent to the GS-12)

Conversion/Movement Out

- **Purpose of Virtual Grade/Virtual Rate limited to “applying GS pay-setting rules”**
- **Virtual grade**
 - Not a factor in determining nature of action
 - Cannot be used for severance pay
 - Cannot be used to determine GS time-in-grade
- **Date of Last Equivalent Increase for GS system may be:**
 - Date of last NSPS increase (e.g., promotion, reassignment, reduction-in-band, ACDP, WIGI adjustment, performance payout), or
 - Date of last opportunity for increase

Reduction-In-Force

- **Section 745, Omnibus Appropriations Act, FY 2009**
 - Prohibits separate RIF competitive areas for pay banded positions and graded positions
 - Rescinds flexibility to supplement employee's official PD with "other applicable records (i.e., performance objectives) for purposes of determining competitive level
- **NDAA 08 – Requires that 5 CFR 210 definitions be used to determine when to apply OPM RIF rules in the event of a “Demotion”**

Salary Increases for Level 1 Employee

- Under 2005 NSPS regulation, an employee who received a Level 1 rating was not permitted a pay increase under any circumstance
- Under 2008 NSPS regulations, employees with Level 1 rating ineligible for general salary increase, locality pay increases, career ladder promotions, nor performance payouts. Employee can receive increase in pay if reassigned or promoted other than career ladder promotion

Classification & Qualifications

- **YG-1 – new pay band approved for Physician/Dentist PS**
 - Adds information to definition of 0602 series
 - Adds YG-1 pay band description and qualifications information
 - Adds information under level of work determinations

- **Incorporated the following changes (corresponding to revisions in OPM classification standards):**
 - Titling/definition changes, cancellations to the 800 professional engineers/architects series
 - Titling/definition changes, cancellations to the 1800 investigative series
 - Cancellation of four series (0312, 0664, 1897, 2050) and deletes all information related to those series

SC1930.8. Overview of Compensation Architecture

SC1930.8.1. General Structure. NSPS classification architecture consists of four Career Groups...

SC1930.8.1.1. Pay Schedules and Pay Bands. At the time the Department of Defense implements NSPS...

SC1930.8.1.1.1. Adjusting Pay Band Rate Ranges. Subject to section...

SC1930.8.1.1.1.1. Increase or decrease the minimum rate of one or more pay bands but leave the maximum at the previously established rate;

SC1930.8.1.1.1.2. Increase or decrease the minimum rate of one or more pay bands or decrease the maximum by a smaller, comparable or larger percentage;

2. Overview of Compensation Architecture

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1. Increase or decrease the minimum rate of one or more pay bands but leave the maximum at the previously established rate;

2. Increase or decrease the minimum rate of one or more pay bands or decrease the maximum by a smaller, comparable or larger percentage;



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Performance and Pay Pool Management

DoD Worldwide Conference
July 2009

July 2009

- **Deployed Civilians and NSPS**
- **Forced Distribution**
- **2009 Payout Summary**
- **Lessons Learned**
- **Pay Pool Funding**
- **Way Ahead**



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Deployed Civilians

DoD Worldwide Conference
July 2009

July 2009

■ Background

- Deputy Under Secretary of Defense (Civilian Personnel Policy) (DUSD(CPP)) held town hall meetings in Iraq
- Deployed NSPS civilians requested clarification regarding how NSPS performance management responsibilities should be handled
- Deployed NSPS civilians expressed:
 - ✓ Inconsistency in performance management processes
 - ✓ Lack of understanding regarding roles and responsibilities

■ Background (cont'd)

- DUSD (CPP) requested development of standard approach to NSPS performance management assessment and processing
- Workgroup comprised of representatives from PEO and Components met in March 2009
- Developed guidance to ensure consistency in administration of NSPS performance management for deployed NSPS civilians

■ Background (cont'd)

- Guidance covers NSPS civilians deployed in support of
 - ✓ Combat operations by the military
 - ✓ Contingencies
 - ✓ Emergency operations
 - ✓ Humanitarian missions
 - ✓ Disaster relief
 - ✓ Restoration of order
 - ✓ Drug interdiction
 - ✓ Stability of operations of the DoD

- **Deployed NSPS Civilian Guidance includes**
 - Fact Sheet: “Guidance for Rating Officials, In-Theater Supervisors, and Employees”
 - Matrix: “Deployed Civilians – NSPS Responsibilities for NSPS Rating Officials, In-Theater Supervisors, and Employees”
 - Scenarios: “Impact of Temporary Assignments to Non-NSPS Positions on the NSPS Performance Management Process”
- **Guidance on DoD Civilian Expeditionary Workforce found in DoD Directive 1404.10**

■ Pay Pool Funding (priority)

- Calculation of Element 1 percentage (spending floor)
- Formulation of pay pool funds (what salaries are counted?)
- Payout distribution and Exec IV Adjusted Salary Cap

■ Pay Pool Funding Working Group

- Reviewing/analyzing current pay pool funding policies and their impact on labor costs
- PEO, Component, and Comptroller representatives
- Developing recommendations (short and long term), assessing feasibility of implementing changes to affect FY09 performance cycle



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Forced Rating Distribution

DoD Worldwide Conference
July 2009

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■ What is Forced Distribution?

- Assignment of performance ratings based on pre-determined distribution by percent of population or number of employees
- Ranks employees relative to one another rather than evaluation of job performance against rating criteria
- Example: Grouping employees into segments by:
 - ✓ Top 20 percent
 - ✓ Middle 70 percent
 - ✓ Bottom 10 percent

■ Forced distribution prohibited under NSPS

- NSPS regulations (5 CFR 9901.412(a)) expressly prohibits forced or pre-determined rating distribution

- NSPS links pay to individual performance by recognizing employees accomplishments through assessment of performance against standard rating criteria
- Rating distribution made for NSPS employees based on individual performance and contributions
- Standard performance indicators:
 - Provide common frame of reference for assessing performance
 - Promote consistency and equity across organizations
 - Ensures employees performing similar type work are evaluated consistently

- **Perception that NSPS ratings are lower than those received under previous performance evaluation systems**
 - Result of rigorous and standardized performance criteria that:
 - ✓ Challenges employees
 - ✓ Sets higher bar for higher performance ratings
 - ✓ Rigorous strict application of criteria
- **NSPS is 5-level performance evaluation system**
 - Level 3 does not represent mediocre performance
 - Level 3 recognizes employees who perform work in 'valued' manner and successfully achieve performance expectations
 - Level 3 standards are rigorous and challenging

- Statistics from past performance payout cycles demonstrate that meaningful distinctions in performance are being made
 - Additional distinctions made through assignment of shares within each rating level.
- Pay Pool Managers responsible for ensuring employees rated at highest levels are delivering exceptional results

- **Communication is key in maintaining the integrity of the rating and rewarding performance process**
 - ROs, HLRs, and pay pool member engage in ongoing dialogue about performance and properly apply performance criteria to ensure meaningful distribution among employees
 - HLRs examine recommended ratings to ensure criteria applied consistently and rigorously
 - ROs given opportunity to justify recommended ratings and are informed of rationale for changes

- **NSPS employees may request reconsideration of ratings**

- **NSPS performance management system designed to make distinctions among employees based on rigorous evaluation of individual performance against standard criteria**
- **Highest level ratings are reserved for employees who deliver exceptional results**
- **Forced distribution strictly prohibited under NSPS**



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2009 Rating and Payout Results

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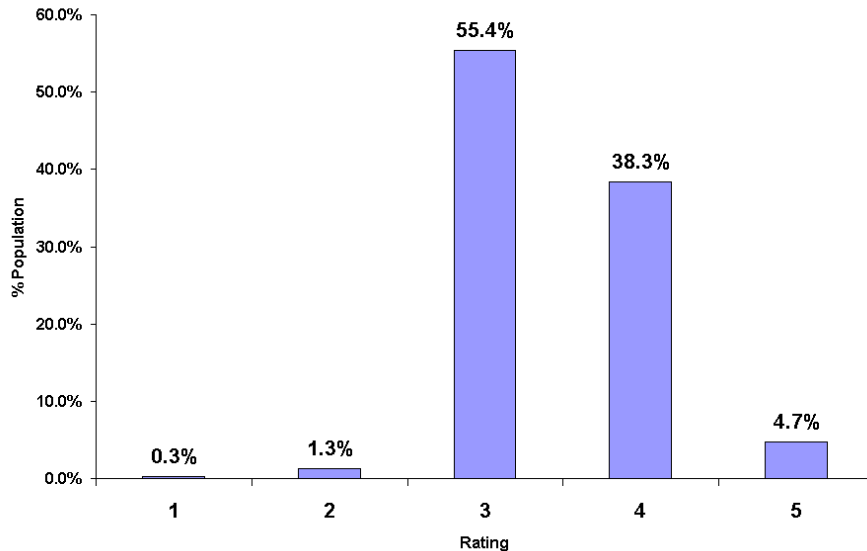
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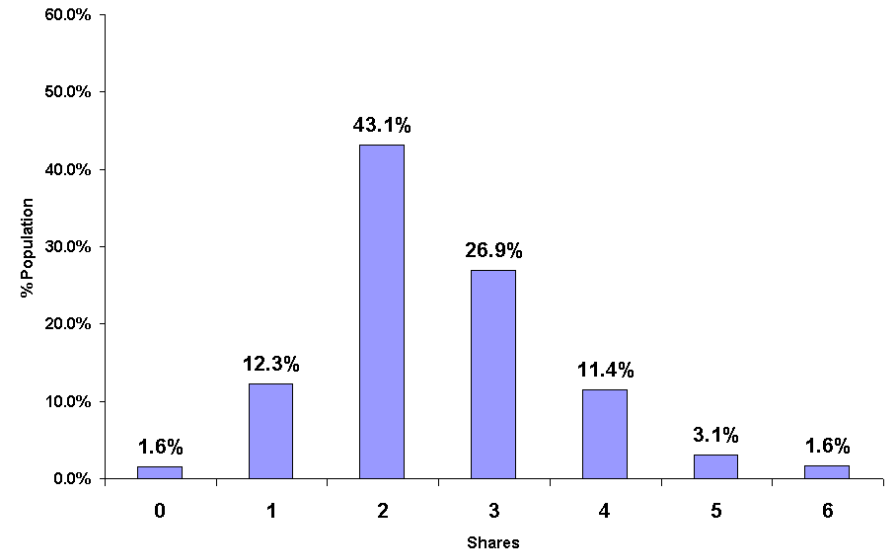
Population and Rating/Share Distribution

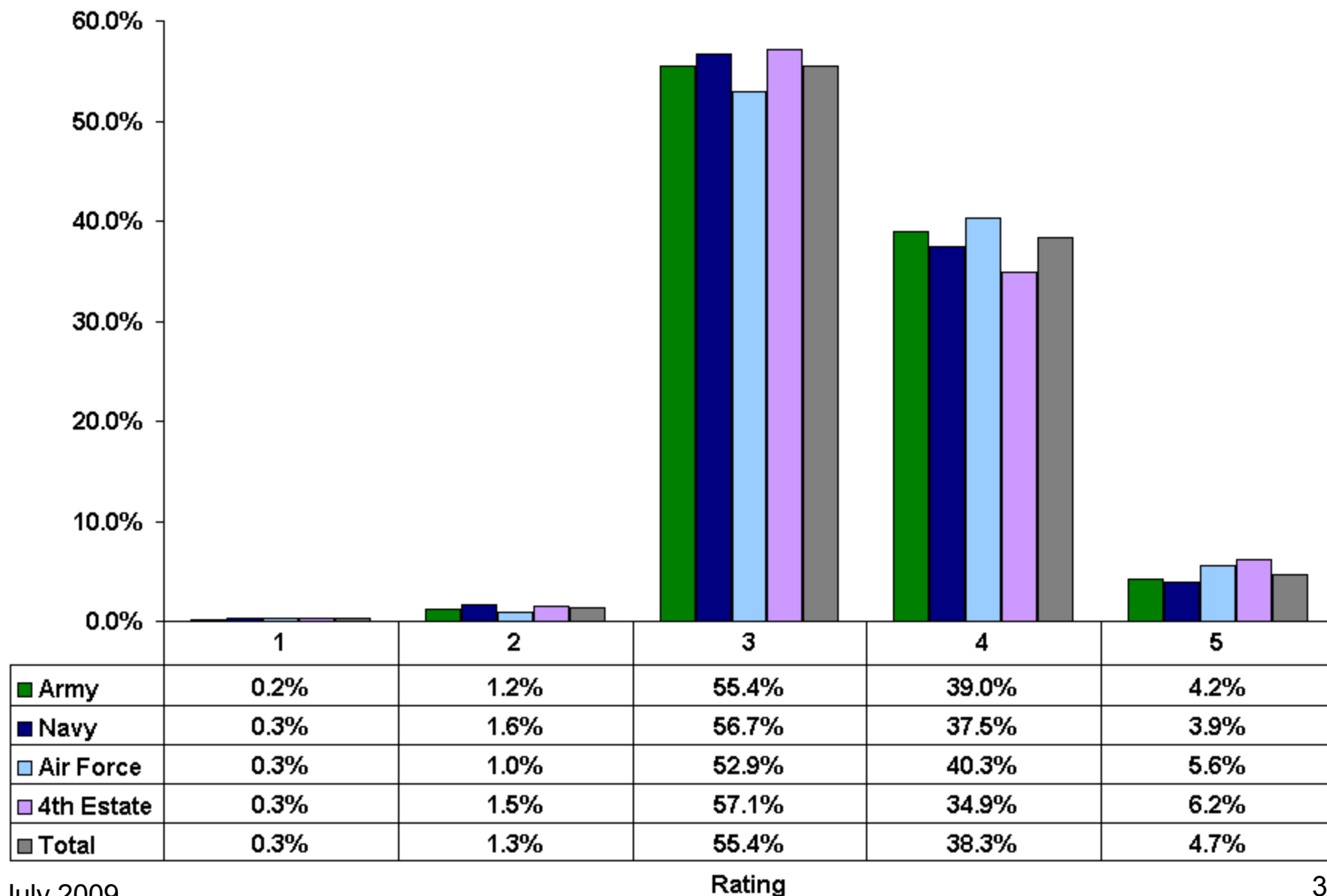
	Pay Pools	Employees in Pay Pools	Employees Rating Eligible
Army	668	70,574	64,741
Navy	380	49,111	46,104
Air Force	359	39,622	37,026
4 th Estate	224	24,294	22,278
Total	1,631	183,601	170,149

Rating Distribution



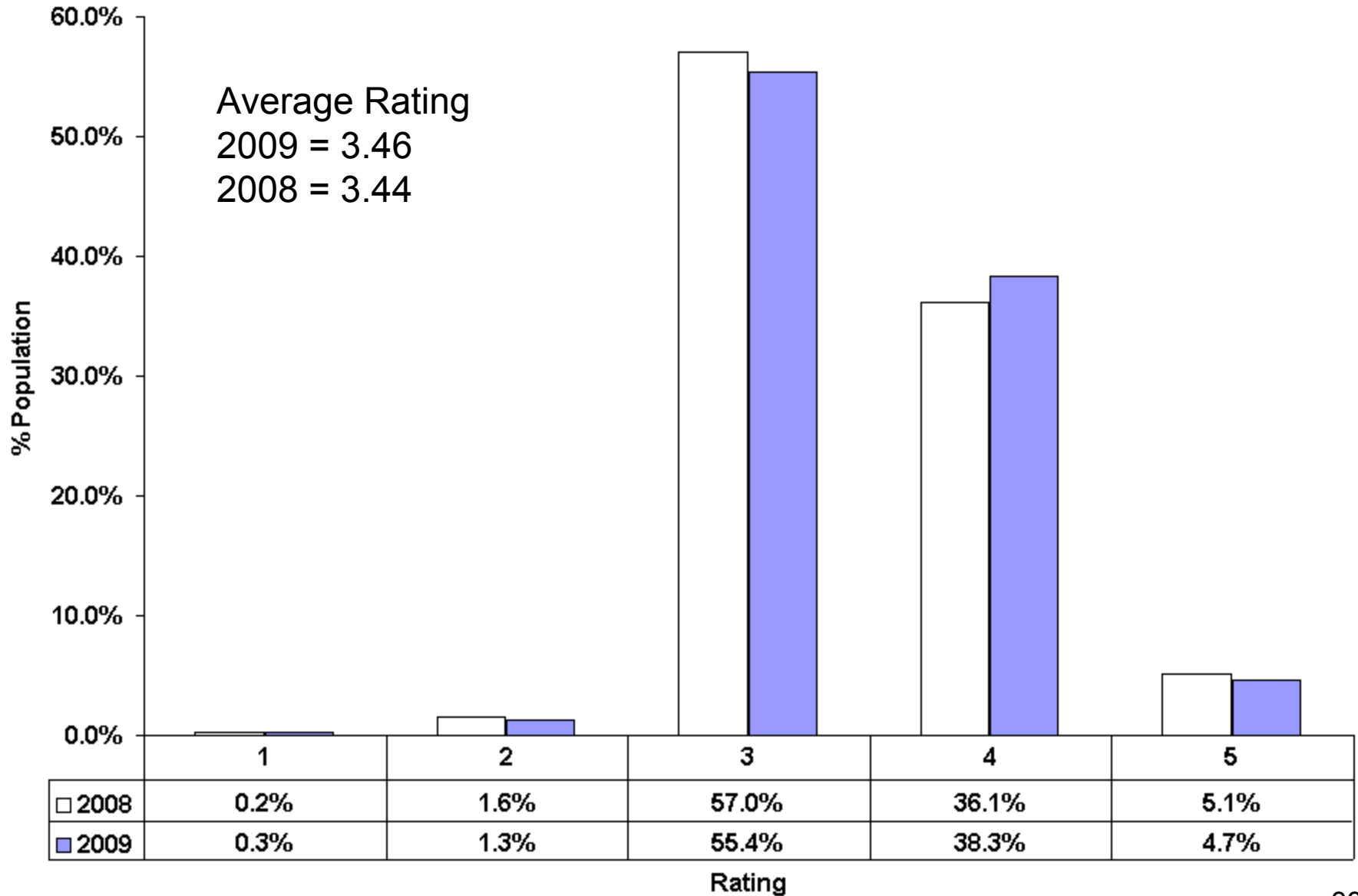
Share Distribution





Rating Distribution

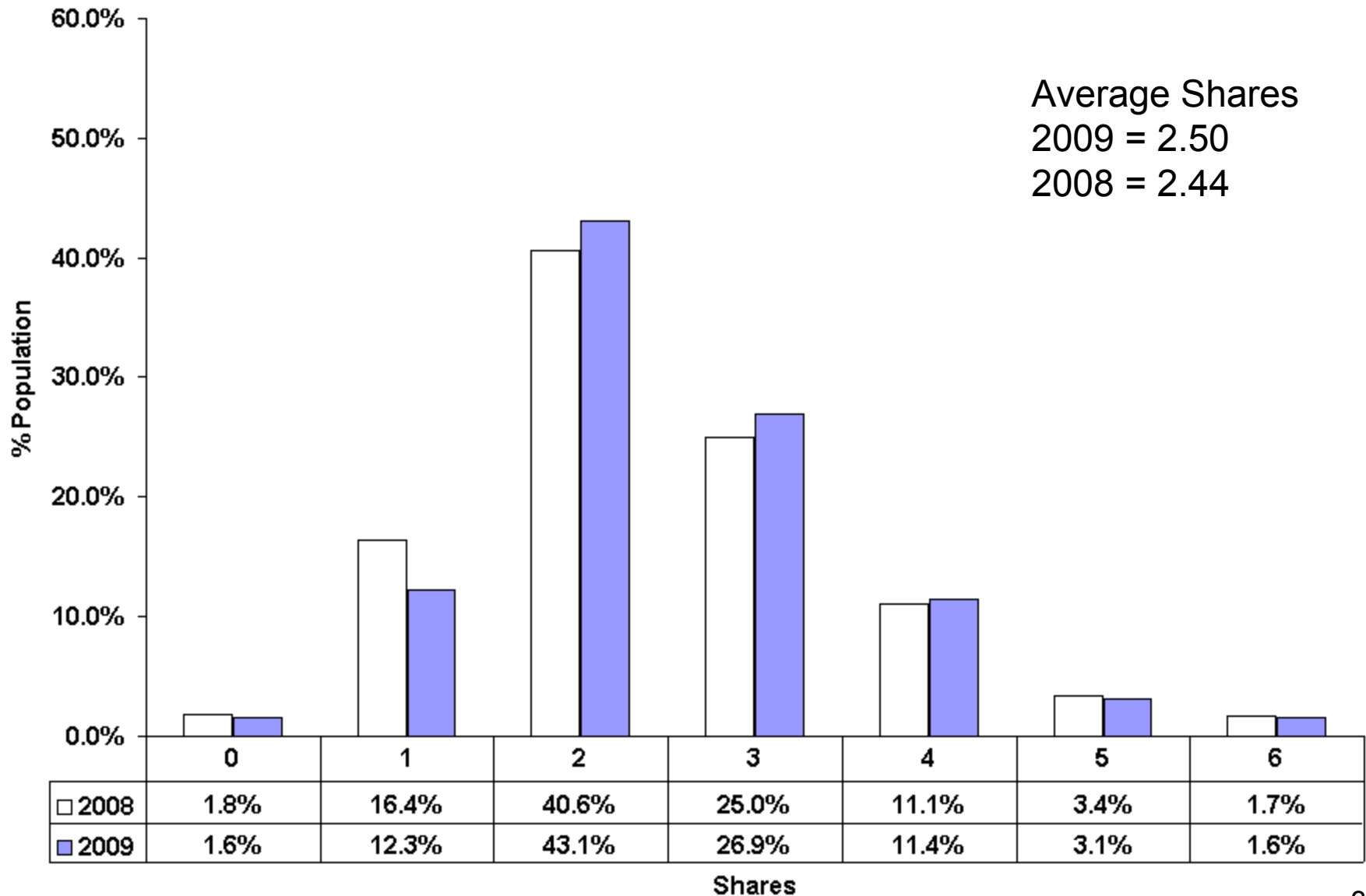
Comparison of 2008 versus 2009





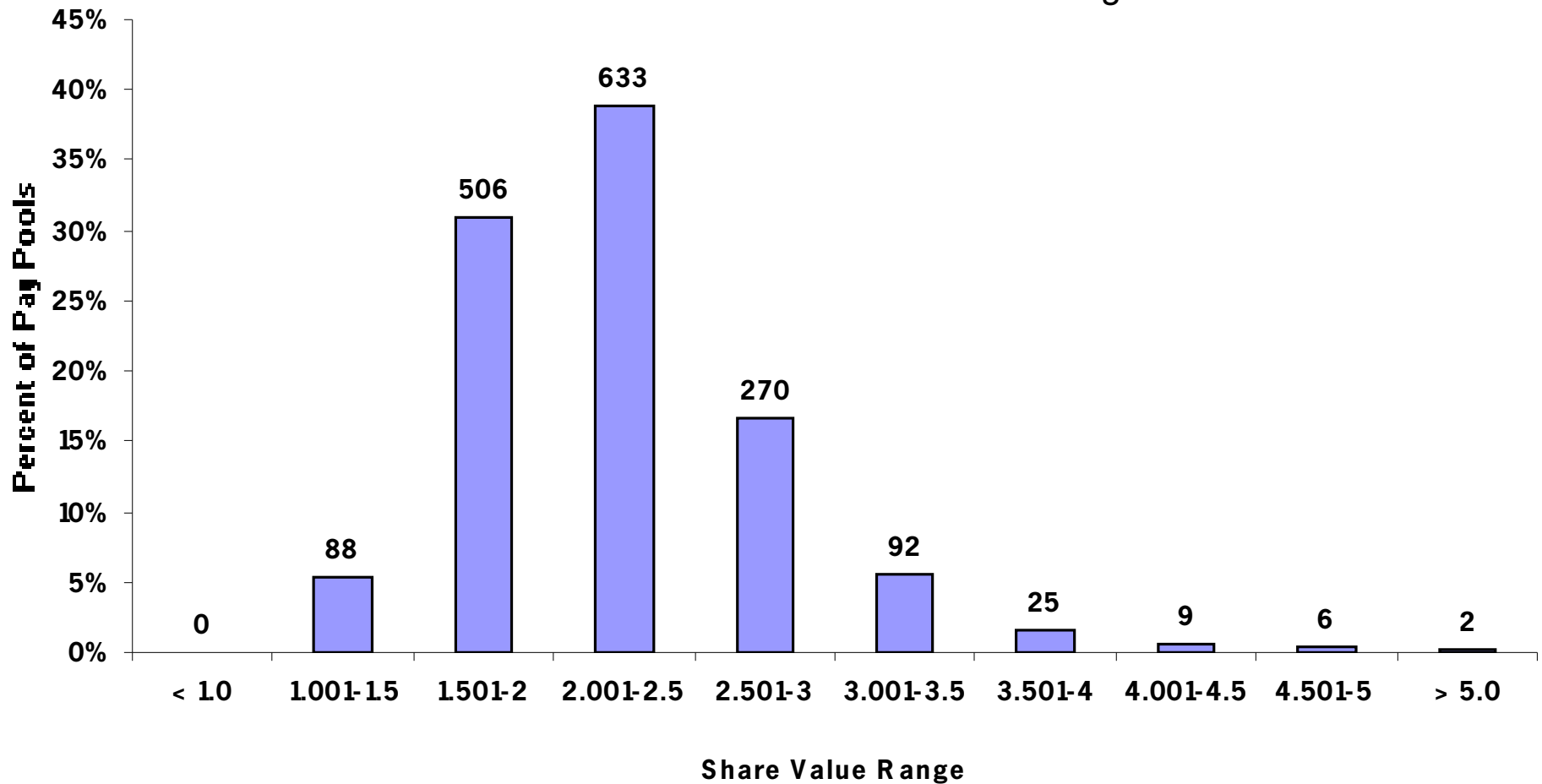
Share Distribution

Comparison of 2008 versus 2009



Share Value Histogram

Overall Average Share Value = 2.23%





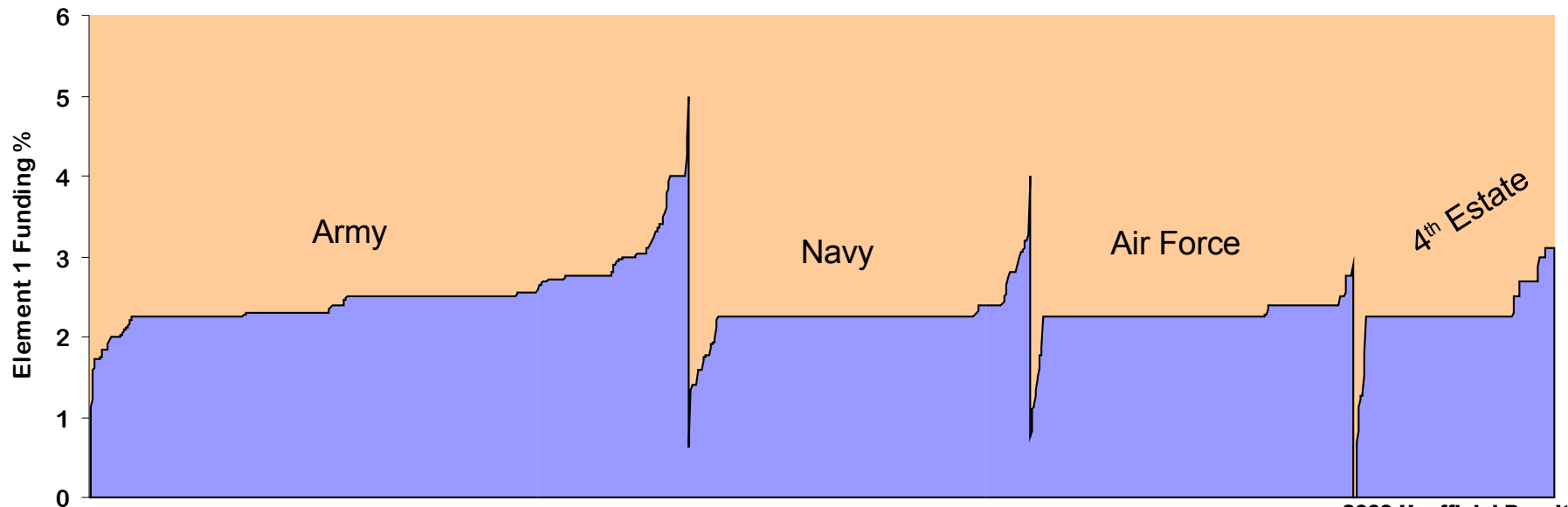
Pay Pool Working Group

Element 1 Funding Floor

	Min	Avg*	Max
Army	0%	2.50%	5.00%
Navy	0.62%	2.30%	4.00%
Air Force	0.75%	2.27%	2.89%
4 th Estate	0%	2.28%	3.10%
Total	0%	2.37%	5.00%

* Average is weighted by pay pool size

Pay Pools	Used 2.26%	2.26% <= Elem 1 <= 3%
668	123 (18%)	559 (84%)
380	282 (74%)	334 (88%)
359	247 (69%)	346 (96%)
224	164 (73%)	200 (89%)
1,631	816 (50%)	1,439 (88%)



2009 Unofficial Results

- **PEO has asked Components to include several areas of focus in their review of pay pools and payouts in their organizations:**
 - Control points
 - EPR/EPI
 - Pay Pool Size
 - Pay Pool Funding
 - Relationship of pay band and supervisory status to ratings and payouts



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Performance Management and Pay Pools Lessons Learned

DoD Worldwide Conference
July 2009

July 2009

■ Background

- Each year PEO and CPMS gather lessons learned
- Input has influenced changes to NSPS regs and IIs
- Process serves as main source of enhancements to PAA, CWB, and PAT
- Most recent lessons learned meeting held in March 2009
- Attendees included representatives from each component :
 - ✓ Employees
 - ✓ Supervisors
 - ✓ Pay pool managers
 - ✓ HR Professionals
- Topics covered:
 - ✓ Policy and Guidance
 - ✓ Tool Functionality
 - ✓ Tool Training

■ Lessons Learned

- Policy and Guidance proposals included:
 - ✓ Pay Pool Funding – Element 1
 - Analysis of current funding floor
 - ✓ Pay Pool Fund Calculation
 - Reassess inclusion of salaries in calculation of pay pool fund
 - ✓ Pay Cap
 - Payout options for employees at the top of pay band
 - ✓ Issue Clarifying Guidance regarding:
 - Contributing Factors
 - Reconsideration process
 - Specially Situated Employees

■ Pay Pool Funding Element 1 –

- Some organizations having difficulty meeting 2.26% due to large number of employees near top of their pay band
- Redistributing Element 1 to few employees eligible for increase creates unhealthy pay progression
- Should Element 1 be different for each Component?

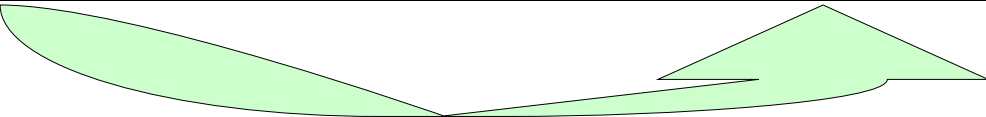
■ What should Element 1 be for 2010? Beyond?

- 2.26% historical spending under GS factored in pay increases now being paid outside the pay pool
- Fixed number does not accommodate changing variables
 - ✓ Higher starting salaries
 - ✓ Shifts in numbers of employees meeting adjusted and/or base pay caps

- **SC 1930.9.2.3. states:**
 - ...the dollar value of the pay pool funding is calculated by multiplying the sum of the base salaries of those employees in a pay pool on the last day of the pay pool's appraisal period by the sum of the percentages assigned to the pay pool fund elements ...
- **The population included when determining pay pool funding can significantly impact the dollar amount of the pay pool**

- Base salaries of 16,560 employees who were not eligible for a payout were included in calculating pay pool funds

	Total Population	Factored in Pay Pool	Rating Eligible	Payout Eligible
Total	183,601*	182,648 (99.5%)	170,149 (92.7%)	166,088 (90.5%)



- The funds added by employees who were not eligible for a payout represented **\$48,742,870, or 7.5%**, of all pay pool funds
- 13 pay pools added over 50% to their total pay pool funds based on employees that were not eligible for a payout



EX IV Cap Background

- Maximum adjusted salary (base pay + locality pay or LMS) is limited by law and regulation for both GS and NSPS employees
 - 2009 EX IV cap for General Schedule employees is \$153,200
 - ✓ 5 USC 5304(g)(1)
 - 2009 EX IV cap for NSPS employees is \$160,860
 - ✓ 5 CFR 9901.312(b)
- When an employee's adjusted salary reaches this cap, their payable locality pay/LMS is reduced to comply with this limitation
- Out of the 32 locality pay areas, 16 are impacted by this cap
 - DC locality pay area hit this cap for the first time in January 2008

	Base Salary		Locality %		Locality \$		Adjusted Salary
GS 15 step 9	\$124,332	x	23.10%	=	\$28,720	→	\$153,052
					-\$0		
					\$28,720	→	\$153,052
GS 15 step 10	\$127,604	x	23.10%	=	\$29,476	→	\$157,080
					-\$3,880	→	
					\$25,596	→	\$153,200

Over EX IV
pay cap

GS Step Increase = 2.6%
+ Locality Pay Increase = 0.0%
Total increase = 2.6%

Actual increase 0.1%



NSPS Payout Example

An employee receives a \$7,000 performance payout. The pay pool splits the payout into a \$5,000 salary increase and a \$2,000 bonus.

Example #2 – NSPS employee impacted by EX IV cap *as a RESULT of the* payout

	Base Salary		Locality %		Locality \$		Adjusted Salary
YA – 3 (before payout)	\$127,000	x	20.89%	=	\$26,530	→	\$153,530
					- 0		
					\$26,530	→	\$153,530
YA – 3 (after payout)	\$132,000	x	23.10%	=	\$30,492	→	\$162,492
					- \$1,632	→	
					\$28,860	→	\$160,860

Over EX IV
pay cap

Performance base increase = 3.9%

+ LMS increase = 2.2%

Total increase = 6.1%

Actual increase 4.8%

Employee's total salary increase would have been 6.1%, including the 3.9% salary increase and 2.2 LMS increase. However, because the employee hits the EX IV cap, the adjusted salary increase is only 4.8%. The old YA 3 base pay max was \$130,211 and the new \$133,985.

■ Way Ahead – Pay Pool Funding

- Workgroup to explore Element 1 methodology for beyond 2010. Consider:
 - ✓ Current population and salaries and
 - ✓ Historical spending

- Potential policy issues pending outcome of NSPS program review
- Classification
 - Pay band 2 of professional/analytical pay schedules
 - Alignment of supervisory and nonsupervisory pay schedules
 - Clinical psychologist (potential placement in Medical CG)
- Pay Pool Structure
 - Mix of supervisors/nonsupervisors in the same pay band
 - Mix of pay band 3 with other pay bands in the same pay pool
- Pay
 - Annual certification of NSPS performance compensation
 - Authority to redistribute payout when temporarily promoted employee is unable to fully receive payout upon return to lower band position due to pay range max
 - Expansion of proficiency pay authority (currently limited to foreign language proficiency pay)

- **Performance Ratings—**
 - “Special Rating” opportunity for Level 2 employees
 - Promotion Increases for Level 1 employees (different occupations)
 - Use of supervisory assessment vs rating of record for ACDP

QUESTIONS?